

SIKKIM



GOVERNMENT

GAZETTE

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No. 425

**GOVERNMENT OF SIKKIM
SIKKIM BIODIVERSITY BOARD
FORESTS, ENVIRONMENT AND WILDLIFE MANAGEMENT DEPARTMENT
GANGTOK – 737 102, SIKKIM**

NO:13/ADM/FEWMD

Dated: 06/08/2018

NOTIFICATION

In exercise of the power conferred by section 63 of the Biological Diversity Act 2002, the State Government hereby makes the following Rules namely: -

- | | |
|-------------------------------------|---|
| Short title and commencement | 1. (1) These rules may be called the Sikkim State Biological Diversity (Amendment) Rules, 2018.
(2) They shall come into force at once. |
| Amendment of Rule 2 | 2. In the Sikkim State Biological Diversity Rules 2006, (hereinafter referred to as the "said rules"), in Rule 2, after clause (j), the following new clause, shall be inserted, namely:-
(ii) "Local Resident" means the person holding Sikkim Subject Certificate or Certificate of Identification or Residential Certificate, as the case may be". |
| Amendment of Rule 4 | 3. In the said rules, in Rule 4, sub-rule (3) shall be omitted. |
| Amendment of Rule 9 | 4. In the said rules, for Rule 9, the following shall be substituted, namely:-
"(1) The State Government shall appoint 5 (five) ex-officio members under clause (b) of sub-section (4) of Section 22 of the Act to represent the departments of State Government, who shall be the head of the departments to represent the Forests, Environment and Wildlife Management Department, Food Security and Agriculture Development Department, Horticulture and Cash Crop Development Department, Animal Husbandry, Livestock, Fisheries and Veterinary Services Department, Tourism and Civil Aviation Development Department." |

- (2) One officer from Forests, Environment and Wildlife Management Department, of or above the rank of Conservator of Forest shall function as Member Secretary to the Board."

Amendment of Rule 11

5. In the said rules, in Rule 11, for sub-rule (9), the following shall be substituted, namely:-

"(9) The Member Secretary shall exercise such other powers and perform such other functions as may be delegated to him/her from time to time by the Board and the State Government."

Amendment of Rule 14

6. In the said rules, in Rule 14, -

- (i) sub-rule (3) shall be omitted;
- (ii) in sub-rule (5), the words "department of the" shall be omitted;
- (iii) for sub-rule (6), the following shall be substituted, namely:-

"Regulate by granting of approval for commercial utilization of any biological resources by Indian citizen or body corporate, association or organization registered in India except those covered under sub-sec (2) of sec 3 of the Act provided that the provision of this rule shall not apply to the local people and communities of the area including growers and cultivators of biodiversity and 'Baides', 'Amjis' and 'Bongthings' who have been practicing indigenous medicine provided they are local population of Sikkim;

- (iv) sub-rule (8) shall be omitted;
- (v) in sub-rule (18), the words "through appropriate oral means" shall be omitted;
- (vi) sub-rule (20) shall be omitted;

Amendment of Rule 15

7. In the said rules, in rule 15, the words "The chairperson shall be the Chief Executive of State Biodiversity Board" shall be added at the beginning of the sentence.

Amendment of Rule 17

8. In the said rules, in rule 17, -

- (i) for sub-rule (1), the following shall be substituted, namely: -

(1) "Any citizen of India or body corporate, organization or association registered in India seeking access to/collection of biological resources and associated knowledge for commercial utilization with the exception of those in proviso to section 7 of the Act, shall make an application to the Board in Form I appended to these rules. Every application shall be accompanied by a fee of Rs. 1000/- and shall be in form of cheque or demand draft;

Provided that this rule shall not be applicable to any person covered under clause (b) and (c) of sub-section (2) of section 3 of the Biological Diversity Act 2002."

- (ii) after sub-rule (1), the following shall be inserted, namely: -

(1a) "Any person intending to do research on biodiversity of Sikkim shall intimate Sikkim Biodiversity Board in writing along with processing fee of Rs. 100/- in the form of cheque or demand draft";

(iii) for sub-rule (4), the following shall be substituted, namely: -

(2) "The Board shall enter into access / collection and benefit sharing agreement with the applicant which shall be governed by the Guidelines on Access to Biological Resources and Associated Knowledge and Benefit Sharing Regulation 2014."

(iv) after sub-rule (7), the following sub-rule shall be inserted, namely:-

(8) "The Board shall take steps to inform all concerned through print or electronic media and shall periodically monitor compliance of conditions on which the approval was accorded."

Amendment of Rule 20 9. In the said rules, in rule 20, for sub-rule (2), the following shall be substituted, namely: -

"The State Biodiversity Fund will have two separate heads of accounts, one relating to the receipts (grants and loans) from Central Government/ NBA and the State Government, including receipt from commercial companies as access fee and such other sources as decided by the Board and other concerning the externally funded projects to the Board."

Amendment of Rule 22 10. In the said rules, in rule 22, in sub-rule (1), the words "and after consultation with Central Government" shall be omitted.

Amendment of Rule 23 11. In the said rules, in Rule 23,-

(1) sub-rule (14) and (15) shall be omitted;

(2) in sub-rule (18), -

(i) the words "The major share of levy charged for the material collected / cultivated from private land should be given to the owner / cultivator of the land / knowledge holder/s and the balance should be deposited in a local biodiversity fund of Biodiversity Management Committee" shall be omitted;

(ii) In the last sentence, the words 'or private' shall be added after the word 'government' and the word 'totally' shall be omitted;

Amendment of Rule 24 12. In the said rules, in Rule 24, -

(1) (i) In sub-rule (4), the words 'or the State Bank of Sikkim' shall be omitted;

(ii) for the words, 'Vice Chairperson', the words 'Member Secretary' shall be substituted;

(2) for sub-rule (7), the following shall be substituted, namely: -

"(7) The fund of the Biodiversity Management Committee shall be used for biodiversity conservation and matters related to such conservation."

**Insertion of
Rule 25**

13. In the said rules, after rule 24, the following rule shall be inserted, namely: -

"25 Appeal for settlement of disputes

- (1) Any disputes between BMC's at Gram Panchayat Unit level and Zilla Panchayat level and any complaint(s) shall be referred to the Board for settlement by either of the parties in FORM II. The decision of the Board shall be binding and final.
- (2) While disposing of the appeal or complaint(s) referred to the Sikkim Biodiversity Board under sub-rule (1) of rule 25, the Board shall grant sufficient opportunity of hearing to all the parties."

**Substitution of
Form I**

14. In the said rules, for the existing FORM I, the following shall be substituted, namely: -

"FORM I

(See rule - 17)

Application form for seeking prior approval to access Biological resources and associated traditional knowledge

Part A

1. Full particulars of the applicant

- (i) Name:
- (ii) Permanent address:
- (iii) Address of the contact person:
- (iv) Profile of the organization (personal profile in case the applicant is an individual). (Please attach relevant documents of authentication):
- (v) Nature of business:
- (vi) Turnover of the organization in Indian Rupee

2. Details and specific information about nature of access sought and biological material and/or associated knowledge to be accessed:

- (i) Identification (scientific name) of biological resources and its traditional use:
- (ii) Geographical location (including where applicable, village, sub division, and district) of proposed collection:
- (iii) Description / nature of traditional knowledge and its existing manifestations and uses (oral / documented):
- (iv) Any identified individual / family / community holding the traditional knowledge:
- (v) Quantity of biological resources to be collected (give the schedule):
- (vi) Time span in which the biological resources is proposed to be collected:

- (vii) Name and number of person authorized by the company for making the collection.
 - (viii) The purpose for which the access is requested including commercial use being derived and expected to be derived from it:
 - (ix) Whether any collection or use of the resource endangers any component of biological diversity and the risks, which may arise from the access.
3. Estimation of benefits that would flow to communities arising out of the use of accessed bioresources and traditional knowledge
 4. Proposed mechanism and arrangements for benefit sharing.
 5. Any other information

Part B

Declaration

I/ we declare that:

- Collection and use of proposed biological resources shall not adversely affect the sustainability of the resources;
- Collection and use of proposed biological resources shall not entail any environmental impact;
- Collection and use of proposed biological resources shall not pose any risk to biodiversity, including ecosystems, species, and genetic diversity;
- Collection and use of proposed biological resources shall not adversely affect the local communities;

I/we undertake to pay any fee as may be levied by the Board or Biodiversity Management Committees. I/we further undertake to furnish any irrevocable bank guarantee as may be prescribed by the Board.

I/we further declare the Information provided in the application form is true and correct and I /We shall be responsible for any incorrect / wrong information.

Signed

Name

Title

Place

Date

Insertion of
new FORM II

15. In the said rules, after FORM I, the following new FORM shall be inserted, namely: -

"FORM II

(See rule -25 (1))

Form of memorandum of Appeal

BEFORE THE SIKKIM BIODIVERSITY BOARD

(Memorandum of appeal under Rule 25 (1) of Sikkim State Biological Diversity (Amendment) Rule 2017)

Appeal No. _____ of 20

.....Appellant (s)

Vs.

.....Respondent (s)

(here mention the designation of the Committee, as the case may be)

The appellant begs to prefer this Memorandum of appeal against
_____ Biodiversity Management Committee on the following
facts and grounds.

1. FACTS;

(Here briefly mention the facts of the case):

2. GROUND

(Here mention the grounds on which the appeal is made):

i)

ii)

iii)

3. RELIEF SOUGHT

i)

ii)

iii)

4. PRAYER:

a) _____

b) _____

c) _____

Place: _____

Signature of the appellant

Dated: _____

With seal

Address